

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

**In the Matter of**

**Connect America Fund**

**High-Cost Universal Service Support**

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**WC Docket No. 10-90**

**WC Docket No. 05-337**

**REPLY COMMENTS OF THE  
WEST VIRGINIA RURAL COMPANIES IN SUPPORT OF PETITION FOR WAIVER  
OF CERTAIN HIGH-COST UNIVERSAL SERVICE RULES**

Armstrong Telephone Company – Northern Division, Armstrong Telephone Company – West Virginia, Hardy Telecommunications, Inc., and Spruce Knob Seneca Rocks Telephone, Inc. (collectively referred to as the “West Virginia Rural Companies” or “WVRC”) hereby file these reply comments to those parties’ submissions made in response to the Public Notice, released February 7, 2013,<sup>1</sup> issued by the Federal Communications Commission (“Commission” or “FCC”).<sup>2</sup> The *February 7<sup>th</sup> Public Notice* sought comments on the West Virginia Rural Companies’ request for a waiver of section 54.313(a)(10) of the Commission rules (rate

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<sup>1</sup> *Public Notice, Wireline Competition Bureau Seeks Comment on the West Virginia Rural Companies Petition For Waiver of Certain High-Cost Universal Service Rules*, WC Docket Nos. 10-90 and 05-337, DA 13-168, released February 7, 2013 (the “*February 7<sup>th</sup> Public Notice*”); *see also* Petition for Waiver by the West Virginia Rural Companies of Sections 54.313(a)(10) and 54.318(i) of the Commission’s Rules or, in the Alternative, Request for Temporary Waiver and Support for the Pending Request for Rulemaking to Modify Section 54.318(i) of the Commission’s Rules, WC Docket Nos. 10-90 and 05-337, filed February 5, 2013 (“*WVRC Petition*”).

<sup>2</sup> Three parties filed comments directly supporting the *WVRC Petition*: National Telecommunications Cooperative Association (“NTCA”), the Public Service Commission of West Virginia (“WVA PSC”), and Frontier Communications Corporation (“Frontier”). For convenience, references to these parties’ respective comments will be noted by their name followed by “Comments.”

comparability reporting requirements) and a waiver of section 54.318(i) of the Commission's rules (rate floor requirements) as a result of impacts of these rules on the West Virginia Rural Companies' respective recovery from the federal Universal Service Fund ("USF").<sup>3</sup>

Alternatively, the West Virginia Rural Companies sought<sup>4</sup> a temporary waiver of those rules and supported a pending request for rulemaking to modify section 54.318(i) of the Commission's rules.<sup>5</sup>

As the record reflects, the West Virginia Rural Companies' request for a permanent waiver of 47 C.F.R. §§ 54.313(a)(10) and 54.318(i) should be granted promptly. The Commission has now had three rounds of comments – initial and reply comments on the *Frontier Petition* and initial comments on the *WVRC Petition* – that address what Frontier properly notes as “essentially the same relief”<sup>6</sup> being sought in both the *Frontier Petition* and the *WVRC Petition*. In each round of comments and/or reply comments, no opposition has been filed to the requested waivers and the variety of public policy bases proffered for granting the relief are compelling. As was true with respect to the supporting comments filed on the *Frontier Petition*,<sup>7</sup> the three parties filing comments on the *WVRC Petition* each support the relief being requested. Accordingly, the West Virginia Rural Companies respectfully submit that a prompt

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<sup>3</sup> See *WVRC Petition* at 2-11.

<sup>4</sup> See *id.* at 2-3, 11.

<sup>5</sup> See Public Notice, WC Docket Nos. 10-90 and 05-337, DA 13-38, released January 11, 2013; see also Frontier Communications Corporation Petition for Waiver, WC Docket Nos. 10-90 and 05-337, filed December 7, 2012 (“*Frontier Petition*”).

<sup>6</sup> Frontier Comments at 1.

<sup>7</sup> See generally Reply Comments of Frontier Communications Corporation, WC Docket Nos. 10-90 and 05-337, filed February 26, 2013 at 2-6.

grant of the *WVRC Petition* is in the public interest and that the relief being requested should be permitted.

With respect to the public interest benefits and bases for granting the relief being sought in the *WVRC Petition*, the record could not be clearer. In addition to the demonstrated bases provided for in the *WVRC Petition*, the WVA PSC, the regulatory body in West Virginia tasked with overseeing the intrastate operations of telephone companies in the State, makes clear “that the current rate structure used by the WVRC and other wireline telephone providers throughout West Virginia for local service provides West Virginia customers an affordable option for telecommunication services that complements the USF.”<sup>8</sup> Further, the WVA PSC properly points out that its approved “Thrifty Caller” plans are an “additional tool” to maintain universal service in West Virginia.<sup>9</sup> That the WVA PSC Comments clearly reflect that the WVA PSC has conducted a thoughtful review of the tariffed rate plans in West Virginia and has considered the universal service implications of their decisions cannot be questioned.<sup>10</sup>

Accordingly, the West Virginia Rural Companies respectfully submit that deference by the FCC to the WVA PSC’s view is appropriate.<sup>11</sup> Moreover, such deference advances the

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<sup>8</sup> WVA PSC Comments at 2.

<sup>9</sup> *Id.* at 5.

<sup>10</sup> Likewise, no questions exist with respect to the factual background leading to the existing rate designs and plans in West Virginia that are offered by the West Virginia Rural Companies. *See id.* at 2-3 (after stating that it reviewed the factual background information provided by the WVRC regarding the local calling structure applicable in West Virginia, the WVA PSC determined that it would “dispense with reiterating the factual background, adopt the WVRC background statement and incorporate it by reference.”).

<sup>11</sup> *See WVRC Petition* at 9.

federal-state partnership regarding universal service.<sup>12</sup>

So too, the comments filed by NTCA point out that universal service funding is to support the network, and thus, the use of a weighted average best reflects the study area-wide basis underlying the USF cost recovery process<sup>13</sup> for interstate rate of return carriers like the West Virginia Rural Companies.<sup>14</sup> Consequently, NTCA correctly concludes that the use of a weighted-average would not harm the federal USF “because the collective rates (and corresponding revenues) generated by the plans emerge above the rate floor.”<sup>15</sup> This conclusion is further supported by the fact that the local rate design and rate plans arise as a result of specific WVA PSC directives and requirements regarding the mandatory offering of local calling plans from which consumers in the respective West Virginia Rural Companies’ service areas can choose.<sup>16</sup>

Accordingly, for the reasons stated in the *WVRC Petition* and in the comments submitted in response to the *February 7<sup>th</sup> Public Notice*, the West Virginia Rural Companies respectfully

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<sup>12</sup> See, e.g., *In the Matter of Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., 26 FCC Rcd 17663 (2011), appeal pending, In Re: FCC 11-161, No. 11-9900 (10<sup>th</sup> Cir.) at ¶611; see also *In the Matter of Connect America Fund, et al., Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., FCC 11-13, released February 9, 2011 at ¶¶84-85. As the FCC has also indicated, the United States Court of Appeals for Tenth Circuit has indicated that “the Act ‘plainly contemplates a partnership between the federal and state governments to support universal service’ and that ‘it is appropriate - even necessary - for the FCC to rely on state action.’” *Id.* at ¶85 quoting *Qwest Corporation v. FCC*, 258 F.3d 1191, 1203 (10<sup>th</sup> Cir. 2001).

<sup>13</sup> NTCA Comments at 3-4.

<sup>14</sup> See *WVRC Petition* at 3.

<sup>15</sup> NTCA Comments at 4.

<sup>16</sup> See *id.* at 4-5. The West Virginia Rural Companies do not take any position regarding NTCA’s comments regarding non-tariffed rate plans. See *id.* at 5.

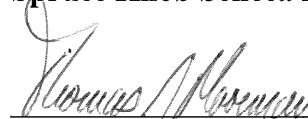
submit that a prompt grant of the requested permanent waiver of the Commission's requirements as set forth in 47 C.F.R. §§ 54.318(i) and 54.313(a)(10) is in the public interest. Alternatively, if a permanent, on-going waiver is not granted, the West Virginia Rural Companies respectfully request, and the commenters support, the commencement of a rulemaking proceeding as requested by Frontier, coupled with a temporary waiver being granted to the West Virginia Rural Companies of the referenced Commission rules.

Date: March 7, 2013.

Respectfully submitted,

**Armstrong Telephone Company – Northern  
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